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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,534	02/25/2004	Nicolai Tarasinski	09163-US	3254
30689	7590	05/08/2006	EXAMINER	
DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265			LE, DAVID D	
			ART UNIT	PAPER NUMBER
			3681	

DATE MAILED: 05/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/786,534	TARASINSKI, NICOLAI	
	Examiner	Art Unit	
	David D. Le	3681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 16, 18, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 16, 18, 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the second Office action on the merits of Application No. 10/786,534, filed on 25 February 2004. Claims 1-11, 16, 18 and 21-22 are pending. Of those pending claims, claims 16, 18 and 21-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species.

Documents

2. The following documents have been received and filed as part of the patent application:

- Information Disclosure Statement, received on 02/25/04
- Foreign Priority Document, received on 02/25/04
- Declaration and Power of Attorney, received on 05/27/04
- Information Disclosure Statement, received on 02/07/05

Claim Objections

3. Claims 1 and 21-22 are objected to because of the following informalities:

Claim 1:

- Line 2, “or industrial utility vehicle having” should be amended as --or industrial utility vehicle, comprising--.

Claims 21 and 22:

- The withdrawn claims 21 and 22 are either directly or indirectly dependent upon the cancelled claim 20. Accordingly, the limitations of claims 21 and 22 have not been considered and should be cancelled.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-11 are rejected under 35 U.S.C. 102(b) as being anticipated by U. S. Patent No. 6,383,106 to Kashiwase.**

Claims 1-11:

Kashiwase (i.e., Figs. 1-9; column 2, line 61 – column 7, line 19) discloses a power transmitting system for a hybrid vehicle comprising:

- A planetary gearbox (i.e., Fig. 1, element 3);
- A first motor/generator (i.e., Fig. 1, element 4);
- An internal combustion engine (i.e., Fig. 1, element 1);
- A power take-off shaft (i.e., Fig. 1, element 5a), which is capable of driving an attached implement;
- A first gearbox interface (i.e., Fig. 1, being the portion of shaft 1a that connects with sun gear 3a of the planetary gearbox) being driven by said engine;
- A second gearbox interface (i.e., Fig. 1, being the shaft portion of said first motor 4 that connects with ring gear 3c of said planetary gearbox);
- A third gearbox interface (i.e., Fig. 1, being the portion of carrier 3b that connects with said power take-off shaft 5a);

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- A second motor/generator (i.e., Fig. 1, element 2);
- A control arrangement (i.e., Fig. 1, element 10);
- Wherein said hybrid vehicle inherently includes a wheel brake for stopping said power take-off shaft (5a) (i.e., column 3, lines 37-48);
- Wherein said power transmitting system inherently includes a rectifier, which is associated with each of said first and second motor/generator (i.e., column 4, lines 46-52);
- Wherein the control arrangement inherently uses various sensors to control the engine, the first motor/generator, the second motor/generator, the rectifiers, and the wheel brake (i.e., column 3, line 31 – column 6, line 50);
- Wherein the planetary gearbox (i.e., Fig. 1, element 3) is considered as an infinitely variable torque division gearbox for the power take-off shaft;
- Wherein the first motor/generator and the second motor/generator supply power to an electrical device (i.e., column 3, lines 37-48); and
- Wherein a rotational speed control of the power take-off shaft is provided as a function of a speed of the vehicle (i.e., column 19-44).

Note:

It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Note:

It should be noted that the following art rejection is necessitated by applicant's amendment.

6. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by U. S. Patent No. 6,607,466 to Bordini.

Claims 1-5:

Bordini (i.e., Fig. 1; column 1, line 8 – column 4, line 58) discloses a device for controlling a tractor comprising:

- a. A combination gearbox (i.e., Fig. 1, element 7);
- b. A first electrical machine (i.e., Fig. 1, element 13);
- c. A power take-off shaft (i.e., Fig. 1; column 4, lines 7-45) for driving an attached implement (i.e., column 1, lines 20-23);
- d. A gearbox interface (i.e., Fig. 1, element 4) of the combination gearbox driven by an internal combustion engine (i.e., Fig. 1, element 2);
- e. Wherein the first electric machine is connected with a second gearbox interface (i.e., Fig. 1, element 12) of the combination gearbox;
- f. Wherein the power take-off shaft is connected with a third gearbox interface (i.e., Fig. 1, being the extended portion of element 4 that includes element 8) of the combination gearbox;
- g. Wherein the combination gearbox is provided with a planetary gearbox (i.e., Fig. 1);

- h. Wherein a second electrical machine (i.e., Fig. 1, element 20) is provided that can be driven indirectly by the internal combustion engine (2);
- i. Wherein the first electrical machine and the second electrical machine can be operated as a generator (i.e., column 2, lines 36-67); and
- j. Wherein the first electrical machine and the second electrical machine can be operated as electric motors (i.e., column 2, lines 36-67).

Response to Arguments

7. Applicant's arguments filed on 24 February 2006 have been fully considered but they are not persuasive.

First, applicant argues that Kashiwase' 106 does not disclose any kind of power take off, which can be used to drive an attached implement. Examiner respectfully disagrees because the claimed recitation "driving an attached implement", as recited in the presently amended claim 1, is considered as intended use recitation; and, the drive shaft 5a of Kashiwase' 106 is capable of driving an attached implement.

Second, applicant argues that the inherent wheel brakes of Kashiwase' 106 are not controlled by the controller, as per claim 8. Examiner respectfully disagrees because Kashiwase' 106 (i.e., column 3, lines 41-45) discloses the vehicle control condition determining system 12 of controller 10 for determining the brake pedal depression condition and controlling the quantity for the engine and the anti-lock brake system. It should be noted that claim 8 does not specify how the controller controls the brake.

Accordingly, as set forth above, Kashiwase' 106 meets the claimed limitations.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0700-1530).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


ddl


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